

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION**

BRENDA BATISTE

V.

**CITY OF BEAUMONT, CITY OF
BEAUMONT POLICE DEPART-
MENT, TOM SCOEFIELD, PAUL
PERRIT, RAY E. BECK, and
DARLENE WISBY**

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NO. 1:05-CV-109

**MEMORANDUM ORDER ADOPTING
MAGISTRATE JUDGE'S REPORTS AND RECOMMENDATIONS**

The court referred this matter to the Honorable Earl S. Hines, United States magistrate judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court, particularly Bmt. Gen. Order 04-07.

The magistrate judge submitted a “Report and Recommendation Re City of Beaumont’s Motion for Summary Judgment” (Docket No. 49) which recommends that the court (a) grant its no evidence motion for summary judgment and (b) dismiss plaintiff’s cause of action under Section 1983 against the defendant City of Beaumont.

The magistrate judge also submitted a “Report and Recommendation of United States Magistrate Judge” (Docket No. 51) which recommends that the court deny the motion for summary judgment submitted by defendants Paul Perritt and Darlene Wisby.

No objections have been filed. Further, upon independent review, the court concurs with the magistrate judge's analysis. Accordingly, the court concludes that the findings of fact and conclusions of law of the magistrate judge are correct, and the reports of the magistrate judge (Docket Nos. 49 & 51) are **ADOPTED**.

By separate orders, the court will implement the recommendations of the magistrate judge. For clarity, the court hereby notifies the parties that the claims now remaining for adjudication are:

- A. Section 1983 allegations of excessive force against defendants Perrit and Wisby, implicating the Fourth Amendment's protection from unreasonable seizure and the Fourteenth Amendment's guarantee of Due Process; and
- B. Texas Tort Claims Act claim against the City of Beaumont.

So **ORDERED** and **SIGNED** this **28** day of **March, 2006**.



Ron Clark, United States District Judge